

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1004 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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RAY ELECTRONICS

Versus

SAPPHIRE TRADERS LTD.  
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Appearance:

MR RV DESAI for Petitioners

MR KH BAXI for Respondent  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/02/2000

ORAL JUDGEMENT

1. Rule. As Shri Baxi has put appearance for the  
respondent, no need to issue notice of rule to  
respondent. The matter is taken up for final hearing on  
the request of the counsel for the parties.

2. Heard the learned counsel for the parties.

3. It is true that the defendants' counsel was not present when the impugned order was passed. It is also true that the application filed by the defendants for grant of leave to defend the suit has been considered but when the court is passing the order behind the back of defendants, it is expected of the court to take up all points which are taken and not only pick up one point. The point taken that the suit is barred by limitation even was not referred. In case of acceptance of this point, unconditional leave to defend the suit may be granted to the defendants. In case this order is allowed to stand it will occasion a failure of justice to the defendants as the defendants have to deposit Rs.1,50,000/= to defend the suit.

4. In the result, this civil revision application succeeds and the same is allowed. The order dated 30-4-1999 in Summary Civil Suit No. 1037 of 1998 of the Chamber Judge, Civil Civil Court, Ahmedabad is quashed and set aside. Learned trial court is directed to decide the matter afresh after hearing the counsel for the parties. It is expected of the court below to decide the application filed by the defendants for grant of leave to defend unconditionally within a period of three months from the date of receipt of writ of this order. Rule is made absolute.

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